

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

B.W. v. Airbnb, Inc.

No. 24-cv-01770-AMO (N.D. Cal. Dec. 30, 2025) · No. 24-cv-01770-AMO · Decided December 30, 2025

SUMMARY

The United States District Court for the Northern District of California denies Airbnb’s motion to dismiss a negligence action brought by B.W., who alleges carbon monoxide poisoning and permanent injury at an Airbnb rental in New Mexico. Applying California’s governmental-interest choice-of-law test, the court applies California law and concludes that B.W. adequately alleged Airbnb owed him a duty of care. The court also denies Airbnb’s request to strike the prayer for punitive damages.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Araceli Martinez-Olguin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	December 30, 2025
DOCKET	24-cv-01770-AMO
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the negligence claim and strike the prayer for punitive damages. The court denied the motion.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepted the complaint's allegations as true and construed them in the light most favorable to the plaintiff. The existence of a duty under California law is a question of law for the court.
PRECEDENTIAL VALUE	Unknown; district court order

TOPICS

- motions to dismiss
- duty of care
- negligence
- punitive damages
- interstate disputes

PRACTICE AREAS

- civil procedure
- torts
- conflict of laws
- remedies

QUESTIONS PRESENTED

1. Whether California or New Mexico law governed the negligence and punitive-damages issues under California's governmental-interest choice-of-law test.
2. Whether the complaint adequately alleged that Airbnb owed B.W. a duty of care under California law.
3. Whether the complaint adequately alleged facts supporting a prayer for punitive damages under California law.

HOLDINGS

1. California law governs the duty-of-care and punitive-damages issues because California and New Mexico have materially different laws, both states have interests in applying their laws, and B.W. did not show that New Mexico's interests would be more impaired by application of California law.
2. The complaint adequately alleged that Airbnb owed B.W. a duty of care because Airbnb's entire conduct in facilitating rental transactions while allegedly knowing of the risk posed by properties without carbon monoxide detectors created a risk of harm.
3. The complaint adequately supported a prayer for punitive damages under California law because its allegations, taken as true and viewed favorably to B.W., plausibly alleged despicable conduct carried on with conscious disregard for the safety of others.

KEY QUOTATIONS

“Because Airbnb’s entire conduct created the risk of harm, it owes B.W. a duty of care.” (at 8)

“Taking these allegations as true and in the light most favorable to B.W., they are sufficient to sustain a prayer for punitive damages at the motion to dismiss stage.” (at 11-12)

FACTUAL BACKGROUND

B.W., a Montana citizen who was an infant at the time, allegedly suffered carbon monoxide poisoning while staying at an Airbnb rental property in Santa Fe, New Mexico. He allegedly sustained permanent brain injury and related cognitive, physiological, behavioral, and social abnormalities. The complaint alleged that Airbnb knew of the dangers of carbon monoxide exposure and the protective role of carbon monoxide detectors, yet did not require or verify that hosts maintained such detectors while continuing to facilitate rental transactions.

PROCEDURAL HISTORY

B.W. sued Airbnb in federal court based on diversity jurisdiction, alleging negligence arising from carbon monoxide poisoning at an Airbnb rental in New Mexico. Airbnb moved to dismiss. The court applied California choice-of-law rules, applied California substantive law, held that the complaint adequately alleged a duty of care and facts supporting punitive damages, and denied the motion.

DISPOSITION

other

CASES CITED

- Cal. Dep't of Toxic Substances Control v. Jim Dobbas, Inc., 54 F.4th 1078, 1089 (9th Cir. 2022)
- Abogados v. AT&T, Inc., 223 F.3d 932, 934, 936 (9th Cir. 2000)
- Chen v. L.A. Truck Ctrs., LLC, 7 Cal. 5th 862, 867-68 (2019)
- CRS Recovery, Inc. v. Laxton, 600 F.3d 1138, 1142 (9th Cir. 2010)
- Munguia v. Bekins Van Lines, LLC, No. 1:11-CV-01134-LJO, 2012 WL 5198480, at *11 (E.D. Cal. Oct. 19, 2012), report and recommendation adopted, 2012 WL 5511749 (E.D. Cal. Nov. 14, 2012)
- Mazza v. Am. Honda Motor Co., 666 F.3d 581, 591-92 (9th Cir. 2012)
- Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC, 31 F.4th 651 (9th Cir. 2022)
- Arno v. Club Med Inc., 22 F.3d 1464, 1467-68 (9th Cir. 1994)
- Rodriguez v. Del Sol Shopping Ctr. Assocs., L.P., 2014-NMSC-014, ¶¶ 22, 24, 326 P.3d 465 (N.M. 2014)
- Brown v. USA Taekwondo, 11 Cal. 5th 204, 213, 215 n.6 (2021)
- Nally v. Grace Community Church, 47 Cal. 3d 278, 292 (1988)
- Kuciamba v. Victory Woodworks, Inc., 14 Cal. 5th 993, 1022, 1027 (2023)
- Rowland v. Christian, 69 Cal. 2d 108, 113 (1968)
- Kesner v. Superior Ct., 1 Cal. 5th 1132, 1145 (2016)
- Tarasoff v. Regents of Univ. of Cal., 17 Cal. 3d 425, 434 (1976)
- Cabral v. Ralphs Grocery Co., 51 Cal. 4th 764, 773 (2011)
- Jane Doe No. 1 v. Uber Techs., Inc., 79 Cal. App. 5th 410, 427 (2022), review denied (Aug. 24, 2022)
- Doe v. Uber Techs., Inc., No. 22-16562, 2025 WL 80365, at *3, *6 (9th Cir. Jan. 13, 2025)
- Uber Techs., Inc. v. Drammeh, No. 24-1020, 2025 WL 2823717 (U.S. Oct. 6, 2025)
- Opperwall v. State Farm Fire & Cas. Co., No. 17-CV-07083-YGR, 2018 WL 1243085, at *5 (N.D. Cal. Mar. 9, 2018)
- Kelley v. Corr. Corp. of Am., 750 F. Supp. 2d 1132, 1148 (E.D. Cal. 2010)
- In re Meta Pixel Tax Filing Cases, 724 F. Supp. 3d 987, 1001 (N.D. Cal. 2024)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7 B.W., Case No. 24-cv-01770-AMO 8 Plaintiff, ORDER RE MOTION TO DISMISS v. 9 Re: Dkt. No. 17 10 AIRBNB, INC., Defendant. 11 12 13 B.W., a citizen of Montana, suing through his father as his next friend, alleges that he 14 suffered carbon monoxide poisoning while staying at an Airbnb rental located in Santa Fe, New 15 Mexico.

Complaint (“Compl.”) (Dkt. No. 1) ¶¶ 1, 48-61. An infant at the time of the incident, 16 B.W. sustained a permanent brain injury and related cognitive, physiological, behavioral, and 17 social abnormalities. Id. ¶ 62. He now sues Airbnb for negligence. Id. ¶¶ 64-70. Airbnb moves 18 to dismiss.1 Motion to Dismiss (“MTD”) (Dkt. No. 17); Reply in Support of Motion to Dismiss 19 (“Reply”) (Dkt.

No. 44). B.W. opposes. Opposition to Motion to Dismiss (“Opp.”) (Dkt. No. 36). 20 The parties’ briefing raises three issues: (1) whether the law of California, proposed by Airbnb, or 21 New Mexico, for which B.W. advocates, should apply, (2) whether, under the applicable law, 22 B.W.’s claim for negligence fails because Airbnb owed him no duty of care, and (3) whether 23 B.W.’s prayer for punitive damages should be stricken.

Mot. at 6, 9, 15; Opp. at 10, 15, 24; Reply 24 1 With its motion, Airbnb asks that the Court take judicial notice of Airbnb’s Terms of 25 Service, Version 11, which Airbnb represents were in effect at the time of B.W.’s injury. Dkt. No. 20.

The request is GRANTED IN PART AND DENIED IN PART. The Court takes judicial 26 notice of the existence of the terms but not for the truth of any assertions contained therein. See *In re Meta Pixel Tax Filing Cases*, 724 F. Supp. 3d 987, 1001 (N.D. Cal. 2024) (taking limited 27 judicial notice of the existence Meta’s terms of service but noting that the Court “cannot conclude 1 at 1, 9, 15.

The Court examines each issue in turn, and concludes the motion should be DENIED. 2 A. Choice of Law 3 Where, as here, a federal court exercises subject-matter jurisdiction on the basis of 4 diversity, it must apply the choice-of-law rules of the forum state. *Cal. Dep’t of Toxic Substances 5 Control v. Jim Dobbins, Inc.*, 54 F.4th 1078, 1089 (9th Cir. 2022) (“In diversity cases, we apply the 6 choice-of-law rules of the forum state to decide state-law questions.”).

California’s three-part 7 governmental interest test thus governs the choice-of-law analysis here. See *id.* (“Insofar as the 8 state law question at issue involves the interpretation of contracts, state courts look to Civil Code 9 § 1646....

In all other contexts, California courts analyze the governmental interests of the 10 various jurisdictions involved to select the most appropriate law.”) (internal quotations and 11 citations omitted). At step one of that framework, “the court examines the substantive law of each 12 jurisdiction to determine whether the laws differ as applied to the relevant transaction.” *Abogados 13 v. AT&T, Inc.*, 223 F.3d 932, 934 (9th Cir.

2000) (citation omitted). At step two, “if the laws do 14 differ, the court must determine whether a ‘true conflict’ exists in that each of the relevant 15 jurisdictions has an interest in having its law applied.” *Id.* (citation omitted). At step three, “if the 16 court finds that there is a true conflict, it carefully evaluates and compares the nature and strength 17 of the interest of each jurisdiction in the application of its own law to determine which state’s 18 interest would be more impaired if its policy were subordinated to the policy of the other state, and 19 then ultimately applies the law of the state whose interest would be the more impaired if its law 20 were not applied.” *Chen v. L.A.*

Truck Ctrs., LLC, 7 Cal. 5th 862, 867-68 (2019). “As a default, 21 the law of the forum state will be invoked, and the burden is with the proponent of foreign law to 22 show that the foreign rule of

decision will further the interests of that state.” CRS Recovery, Inc. v. 23 Laxton, 600 F.3d 1138, 1142 (9th Cir. 2010). 24 There is no dispute at step one of the governmental interest test.

The parties agree that the 25 substantive law of California and New Mexico differ. See Opp. at 13 (“New Mexico and 26 California law differs greatly with respect to the determination of a legal duty, the level of conduct 27 required to recover punitive of damages, and the applicable burden of proof for punitive 1 California law such that the Court must evaluate the states’ relative interests in the application of 2 their law.”).

3 The parties dispute steps two and three. With respect to the inquiries relevant at each, 4 B.W. has failed to carry his burden to demonstrate that the Court should depart from applying 5 California law by default.

For purposes of step two, despite B.W.’s contention that “there is a 6 false conflict” because “New Mexico has a predominant, presumptive, and prevailing interest in 7 having its laws applied to this case [while] California does not[,]” both states have an interest in 8 having their respective laws applied to this action. New Mexico has a legitimate interest in having 9 its laws applied in this case because the injury giving rise to this litigation occurred within its 10 borders.

See Munguia v. Bekins Van Lines, LLC, No. 1:11-CV-01134-LJO, 2012 WL 5198480, at 11 *11 (E.D. Cal. Oct. 19, 2012), report and recommendation adopted, No. 1:11-CV-01134-LJO, 12 2012 WL 5511749 (E.D. Cal. Nov. 14, 2012) (finding that Nevada had a competing, but minimal, 13 interest in the application of its laws because the accident giving rise to the litigation occurred 14 there).

15 California has a countervailing interest in having its laws applied because Airbnb is a 16 resident corporation with its principal place of business in San Francisco, see Compl. ¶ 4, and 17 “each state has an interest in setting the appropriate level of liability for companies conducting 18 business within its territory[.]” Mazza v. Am. Honda Motor Co., 666 F.3d 581, 591-92 (9th Cir.

19 2012), overruled on other grounds by Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods 20 LLC, 31 F.4th 651 (9th Cir. 2022). B.W. has made no showing that the policies underpinning any 21 liability on the part of Airbnb were made other than within California.² See Compl. ¶¶ 4 (alleging 22 Airbnb “is a corporation with its principal place of business in San Francisco, California); 34 23 (alleging Airbnb published a blog post promising that “[b]y the end of 2014, we’ll require all 24 Airbnb hosts to confirm that they have these devices installed in their listing.”); 37 (alleging 25 26 2 Thus, while B.W. contends that “New Mexico has a significant interest in ‘reliably defining the duties and scope of liability of [entities] doing business within its borders[.]’ ” and in defining the 27 scope of liability for punitive damages, Opp. at 14, the same can be said of California because 1 Airbnb “elected not to require or verify the safety, suitability, location, quality, or compliance with 2 the law or Airbnb policies and standards with respect to CO

alarms”); 38 (alleging Airbnb elected 3 not to require or verify hosts’ compliance with respect to CO alarms despite its knowledge that 4 CO exposure and poisoning involves an unreasonable risk of harm to guests using its platform”); 5 40 (alleging Airbnb “elected not to require or verify hosts’ compliance with respect to CO alarms 6 because doing so would result in deactivating non-compliant listings which would negatively 7 impact Defendant Airbnb, Inc.’s bottom line”); 41 (alleging Airbnb “published several statements, 8 blog posts, and similar resources on its Resource Center warning against the dangers of CO 9 poisoning and reiterating the importance of having functional CO detectors in properties listed 10 through the platform.”).

Here, the connection between the forum state and the controversy is not 11 limited. Cf. *Abogados*, 223 F.3d at 936 (finding that New York did not have a significant interest 12 in applying its law because no activities relevant to the cause of action occurred in the state and its 13 interest in the litigation was limited to regulating a New York corporation’s conduct); *Arno v. 14 Club Med Inc.*, 22 F.3d 1464, 1467-68 (9th Cir.

1994) (applying French law to the plaintiff’s tort 15 claims where “virtually all of the relevant conduct occurred outside California”); *Munguia*, 2012 16 WL 5198480, at *11 (finding that “[w]hile Nevada ha[d] an interest in limiting the recovery of 17 damages for accidents occurring on its roadways, Nevada’s interest in th[e] action [wa]s limited 18 because Defendants [we]re not residents of Nevada, nor ha[d] they shown any connection or nexus 19 with Nevada, other than the fact that Nevada [wa]s the place of the accident.”).

Accordingly, the 20 Court finds a true conflict exists here because each state has an interest in having its respective 21 laws applied in this suit. 22 At step three, the Court “carefully evaluates and compares the nature and strength of the 23 interest of each jurisdiction in the application of its own law to determine which state’s interest 24 would be more impaired if its policy were subordinated to the policy of the other state, and then 25 ultimately applies the law of the state whose interest would be the more impaired if its law were 26 not applied.” *Chen*, 7 Cal. 5th at 867-68.

As the party requesting that foreign law apply, B.W. has 27 the burden “to show that the foreign rule of decision will further the interests of that state.” CRS 1 At this step, B.W. argues the following: 2 Even if California has a comparable interest, it is minimal compared to New Mexico’s.

In New Mexico, foreseeability may 3 not be used by courts to “limit or eliminate a duty in a particular class of cases.” *Rodriguez v. Del Sol Shopping Ctr. Assocs., L.P.*, 4 2014-NMSC-014, ¶ 24[, 326 P.3d 465 (N.M. 2014)]. Instead, “[f]orseeability determinations are reserved for a jury because such 5 determinations require the jury’s common sense, common experience, and its consideration of community behavioral norms.” 6 *Id.* ¶ 22.

This principle is grounded in constitutional notions under both the New Mexico and the U.S. Constitutions. *Id.* New Mexico courts take this principle “seriously and have cautiously guarded the right to jury trial in civil cases by erring on the side of allowing factual issues to be decided by juries. *Id.* And in New Mexico, issues regarding foreseeability are matters of fact reserved for the jury.

Id. Since New Mexico’s duty analysis is based on the constitutional right to a jury trial, New Mexico’s interest would be the more impaired if its law were not applied. *Abogados*, 223 F.3d at 934. 11 *Opp.* at 14-15. B.W. does not grapple with California’s interests nor does he explain how New Mexico’s interests would be more impaired if California law, rather than the law of New Mexico, were applied.

Accordingly, the Court will apply, by default, California law in determining whether B.W. has sufficiently alleged facts giving rise to a duty of care by Airbnb. 16 B. Duty 17 “To establish a cause of action for negligence, the plaintiff must show that the ‘defendant 18 had a duty to use due care, that [the defendant] breached that duty, and that the breach was the 19 proximate or legal cause of the resulting injury.’ ” *Brown v. USA Taekwondo*, 11 Cal. 5th 204, 20 213 (2021) (quoting *Nally v. Grace Community Church*, 47 Cal. 3d 278, 292 (1988)).

The 21 existence of a duty is “threshold matter” that presents “a question of law to be resolved by the 22 court.” *Id.* (citations omitted). “Duty is not universal; not every defendant owes every plaintiff a 23 duty of care. A duty exists only if the plaintiff’s interests are entitled to legal protection against 24 the defendant’s conduct.” *Id.* (internal quotations and citation omitted).

25 Section 1714(a) of the California Civil Code provides the general rule of duty in 26 California. To determine whether a defendant owes a plaintiff a duty of care under Section 27 1714(a), courts undertake a two-step inquiry.

First, courts determine “whether the defendant’s 1 courts then determine whether to narrow or except that duty based on the multifactor test set forth 2 in *Rowland v. Christian*, 69 Cal. 2d 108 (1968). *Kuciamba v. Victory Woodworks, Inc.*, 14 Cal. 3d 993, 1022 (2023) (citations omitted).

As discussed below, each of these steps is met here. 4 1. Risk of Harm 5 B.W. adequately alleges that Airbnb’s conduct created a risk of harm. He alleges that 6 Airbnb “had knowledge of and was aware of the dangers of CO exposure poisoning in short-term 7 vacation rental properties[.]” *Compl.* ¶ 32, “knew that CO alarms can prevent CO exposure and 8 poisoning from occurring in short-term vacation rental properties[.]” *id.* ¶ 33, and despite its 9 promises to do so, it “never required hosts to (a) have CO alarms in their rental properties; or 10 (b) have hosts or guests confirm that CO detectors are present in active listings on the platform.” 11 *Id.* ¶ 36.

These allegations sufficiently plead that Airbnb’s own conduct created a risk of harm – 12 by facilitating the transaction that led to B.W. staying a rental property that, statistically, would 13 not

be equipped with a carbon monoxide alarm because Airbnb, aware of the risks, declined to 14 require it of its hosts – such that it owed B.W. a duty to exercise due care.³ Indeed, while Airbnb 15 highlights the portions of its terms in which it disclaims ownership or control over the properties 16 listed on its website, it nonetheless acknowledges the role its platform plays.

It “allows [h]osts 17 and [g]uests to connect with each other to transact, make payments, and communicate.” Mot. at 8. 18 Given the ease with which the platform facilitates rental transactions among between hosts and 1.5 19 billion guests, see Compl. at 1, Airbnb connects hosts and guests on an unprecedented scale. With 20 that volume of transactions comes an increased risk that any Airbnb guest would be staying at a 21 property that Airbnb knew, statistically, would likely not be equipped with a carbon monoxide 22 detector and would expose guests to known carbon monoxide-related risks.

For these reasons, 23 Airbnb owed B.W. a duty to use due care in its operations. 24 Airbnb’s argument that this theory fails “because Plaintiff does not and cannot allege that 25 the risk of listing properties without working carbon monoxide detectors was a necessary 26 27 3 Because the Court concludes that a duty attaches under this theory, the Court does not address 1 component of Airbnb’s providing an online marketplace[,]” Mot. at 15, is not convincing.

Airbnb 2 bases this argument on *Jane Doe No. 1 v. Uber Techs., Inc.*, which explained “[t]he crux of the 3 difference between misfeasance and nonfeasance for purposes of assessing a duty to protect is 4 whether the third-party conduct was a necessary component’ of the [defendant’s] conduct at 5 issue.” 79 Cal. App. 5th 410, 427 (2022), review denied (Aug. 24, 2022) (internal quotations and 6 citations omitted).

The Ninth Circuit, however, has determined this decision would not be 7 followed by the California Supreme Court, as the necessary component test applied there, “would 8 have precluded the outcome” in other state court cases, including a California Supreme Court 9 decision, in which the necessary component test was not applied. *Doe v. Uber Techs., Inc.*, No. 10 22-16562, 2025 WL 80365, at *3 (9th Cir.

Jan. 13, 2025), cert. denied sub nom. *Uber Techs., Inc. 11 v. Drammeh*, No. 24-1020, 2025 WL 2823717 (U.S. Oct. 6, 2025). The necessary component test 12 thus does not preclude a finding of duty here. See *id.*; see also *Brown*, 11 Cal. 5th at 215 n.6 13 (“Although our precedents have sometimes referred to the distinction between ‘misfeasance’ and 14 ‘nonfeasance,’ we now understand this terminology to be imprecise and prone to 15 misinterpretation.

The proper question is not whether an actor’s failure to exercise reasonable care 16 entails the commission or omission of a specific act. Rather, it is whether the actor’s entire 17 conduct created a risk of harm.”) (internal quotations and citations omitted).

Because Airbnb's entire conduct created the risk of harm, it owes B.W. a duty of care. Having determined that Airbnb owes B.W. a duty of care, the Court now assesses whether any of the Rowland factors warrant narrowing or excepting that duty.

The Rowland factors fall into two categories. *Kesner v. Superior Ct.*, 1 Cal. 5th 1132, 1145 (2016). "Three factors – foreseeability, certainty, and the connection between the plaintiff and the defendant – address the foreseeability of the relevant injury[.]" *Id.* "[T]he other four – moral blame, preventing future harm, burden, and availability of insurance – take into account public policy concerns that might support excluding certain kinds of plaintiffs or injuries from relief." *Id.* The Court addresses each category in turn.

1 a. Foreseeability of the Relevant Injury 2 Issues related to foreseeability are assessed based on the information available at the time 3 of the alleged negligence. The California Supreme Court has long recognized that "[t]he most 4 important of these considerations in establishing duty is foreseeability." *Tarasoff v. Regents of 5 Univ. of Cal.*, 17 Cal. 3d 425, 434 (1976). "[T]he court deciding duty assesses the foreseeability 6 of injury from the category of negligent conduct at issue." *Cabral v. Ralphs Grocery Co.*, 51 Cal. 7 4th 764, 773 (2011).

8 B.W. has sufficiently alleged facts establishing that increasing the risk of harm of carbon 9 monoxide exposure and poisoning was reasonably foreseeable for Airbnb. As discussed above, at 10 the time B.W. was poisoned, Airbnb "had knowledge of and was aware of the dangers of CO 11 exposure poisoning in short-term vacation rental properties[.]" Compl. ¶ 32, "knew that CO 12 alarms can prevent CO exposure and poisoning from occurring in short-term vacation rental 13 properties[.]" *id.* ¶ 33, had acknowledged "published reports indicat[ing] that roughly 60 percent 14 of all homes in North America don't have carbon monoxide detectors," and despite its promises to 15 do so, it "never required hosts to (a) have CO alarms in their rental properties; or (b) have hosts or 16 guests confirm that CO detectors are present in active listings on the platform." *Id.* ¶ 36.4 17 The connection and certainty factors also bolster the foreseeability analysis, as they are not 18 as attenuated as Airbnb claims.

It asserts that "any conduct by Airbnb bears, at most, a distant 19 connection to Plaintiff's injury. Airbnb provides an online marketplace connecting property 20 owners looking to rent their properties with potential guests. Airbnb had no physical contact with 21 or control over the Property or the heater that Plaintiff alleges leaked poisonous gas." Reply at 14.

22 This ignores that B.W. was poisoned at the New Mexico property that was booked using the 23 online marketplace that functioned as Airbnb designed it – i.e., to connect property owners 24 looking to rent their properties with potential guests, and without the controls in place that Airbnb 25 26 4 B.W. also alleges that "[s]ince 2013, at least 19 people have died from CO poisoning while staying at properties rented through Defendant Airbnb, Inc.'s platform," but does not allege that 27 Airbnb was aware of those deaths.

Nonetheless, the reasonable inference to draw is that Airbnb 1 elected not to implement notwithstanding the known risks of lacking carbon monoxide detectors 2 and carbon monoxide poisoning. The certainty of that harm occurring was also known to Airbnb, 3 having announced its promise to require and verify carbon monoxide detector installation after 4 public reports indicated that 60% of homes in America do not have them.

5 Foreseeability thus does not weigh in favor of narrowing Airbnb's duty to B.W. See Doe, 6 2025 WL 80365, at *6 (concluding that foreseeability did "not weigh in favor of narrowing Uber's 7 duty to its app users" where the plaintiff had "identified numerous examples of similar incidents 8 that occurred prior... as well as evidence that Uber was aware of these incidents.").

9 b. Public Policy Concerns 10 The " 'duty analysis is forward-looking' in regard to policy issues surrounding burdens 11 that would be placed on defendants." Kuciemba, 14 Cal. 5th at 1022 (citations omitted). These 12 issues do not favor Airbnb. 13 With respect to "the extent of the burden to the defendant and consequences to the 14 community of imposing a duty to exercise care with resulting liability for breach," Kuciemba, 14 15 Cal. 5th at 1027 (quoting Rowland, 69 Cal. 2d at 113), Airbnb contends that because it lacks 16 "ownership, control, or access to the property, verifying hosts' representations would be 17 practically impossible." Reply at 13.

This argument is not convincing. A sophisticated, well- 18 resourced, and highly innovative company like Airbnb can devise appropriate measures (which 19 may potentially be as simple as delisting a property where the host has not sufficiently 20 demonstrated compliance) so as not to increase the risk of connecting unsuspecting guests with 21 hosts whose properties lack carbon monoxide detectors.5 22 Airbnb's remaining arguments are also unconvincing.

It asserts that "imposing a duty on 23 Airbnb would not advance the policy of preventing future harm, as Airbnb neither brought about 24 the carbon-monoxide leak nor has the omnipotence to foresee when and where such an accident 25 will occur." Reply at 14. Airbnb ignores the allegations in the complaint that, at the time B.W. 26 27 5 Airbnb highlights that the owners of the Santa Fe home where B.W. was poisoned had certified 1 was poisoned, it knew most homes in the United States are not equipped with carbon monoxide 2 detectors and nonetheless proceeded to connect guests with hosts, even after the dangers of carbon 3 monoxide exposure were so well documented that Airbnb promised to do something about it, 4 could do something about, and it ultimately elected to continue business as usual.

While 5 discovery will likely reveal the reasons for Airbnb's decision, based on the current allegations in 6 the complaint, and despite Airbnb's contention to the contrary, see Reply at 14, its conduct is 7 blameworthy.

Finally, Airbnb does not address the insurance factor. According to B.W., "there is 8 generally commercial insurance available for ordinary negligence. This is not an instance where 9 the duty is

to prevent third party criminal or intentional activity for which there is commonly a 10 coverage exclusion.” Opp. at 24. Absent a response from Airbnb on this point, the insurance 11 factor cuts against it.

12 For these reasons, none of the relevant policy considerations warrant limiting or excepting 13 Airbnb’s duty to B.W. See Doe, 2025 WL 80365, at *6. The Court now turns to the parties’ 14 arguments about B.W.’s prayer for punitive damages. 15 C. Punitive Damages 16 Airbnb moves to “strike Plaintiff’s request for punitive damages under Rule 12(b)(6) 17 because Plaintiff fails to allege any facts that would support such a claim under California law.” 18 Mot. at 17.

California law authorizes such damages “[i]n an action for the breach of an obligation 19 not arising from contract, where it is proven by clear and convincing evidence that the defendant 20 has been guilty of oppression, fraud, or malice....” Cal. Civ. Code § 3294. “Oppression” is 21 “despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of 22 that person’s rights.” Id. § 3294(c)(2). “Fraud” is “an intentional misrepresentation, deceit, or 23 concealment of a material fact known to the defendant with the intention on the part of the 24 defendant of thereby depriving a person of property or legal rights or otherwise causing injury.” 25 Id. § 3294(c)(3). “Malice” is “conduct which is intended by the defendant to cause injury to the 26 plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious 27 disregard of the rights or safety of others.” Id. § 3294(c)(1).

1 • “Since 2013, at least 19 people have died from CO poisoning while staying at 2 properties rented through Defendant Airbnb, Inc.’s platform.” Compl. ¶ 31. 3 • “At all material times, Defendant Airbnb, Inc. had knowledge of and was aware of the dangers of CO exposure poisoning in short-term vacation rental properties.” Id. 4 ¶ 32. 5 • “At all material times, Defendant Airbnb, Inc. knew that CO alarms can prevent 6 CO exposure and poisoning from occurring in short-term vacation rental properties.” Id. ¶ 33.

7 • “In 2014, Defendant Airbnb, Inc. published a blog post stating: ‘We know that 8 smoke and carbon monoxide detectors save lives, but published reports indicate 9 that roughly 60 percent of all homes in North America don’t have carbon monoxide detectors.

We want to do more. By the end of 2014, we’ll require all Airbnb hosts 10 to confirm that they have these devices installed in their listing. To help achieve this goal, we are giving away smoke and carbon monoxide detectors to every 11 eligible host in the United States who requests one and we’re working to expand all of these initiatives around the world.’ ” Id. ¶ 34.

12 13 • “This blog post has since been deleted by Defendant Airbnb, Inc.” Id. ¶ 35. 14 • “Defendant Airbnb, Inc. was acutely aware of the danger of CO, and the importance of a CO alarm as a potentially life-saving device in every home with a 15 fuel-burning appliance.

However, to date, Defendant Airbnb, Inc. still has never required hosts to (a) have CO alarms in their rental properties; or (b) have hosts or guests confirm that CO alarms are present in active listings on the platform.” Id. ¶ 17 36. 18 • “Upon information and belief, Defendant Airbnb, Inc. elected not to require or verify hosts’ compliance with respect to CO alarms because doing so would result 19 in deactivating non-compliant listings which would negatively impact Defendant 20 Airbnb, Inc.’s bottom line.” Id. ¶ 40.

21 • “At all material times and over the course of several years, Defendant Airbnb, Inc. published several statements, blog posts, and similar resources on its Resource 22 Center warning against the dangers of CO poisoning and reiterating the importance of having functional CO detectors in properties listed through the platform.” Id. ¶ 23 41. 24 25 Taking these allegations as true and in the light most favorable to B.W., they are sufficient to 26 sustain a prayer for punitive damages at the motion to dismiss stage.

Cf. *Opperwall v. State Farm Fire & Cas. Co.*, No. 17-CV-07083-YGR, 2018 WL 1243085, at *5 (N.D. Cal. Mar. 9, 2018) 1 provide defendant with fair notice of the nature of his claims); *Kelley v. Corr. Corp. of Am.*, 750 F. 2 Supp. 2d 1132, 1148 (E.D. Cal. 2010) (dismissing punitive damages claims where they were 3 “unsupported by allegation of any facts”). 4 Accordingly, Airbnb’s request to strike B.W.’s prayer for punitive damages under Rule 5 12(b)(6) is DENIED.

6 IT IS SO ORDERED. 7 Dated: December 30, 2025 8 ☐☐ ☐ 9 coh ARACELI MARTINEZ-OLGUIN 10 United States District Judge 11 12 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28